

**DIRECT TESTIMONY**

**of**

**GREG ROCKROHR**

Energy Engineering Program

Safety and Reliability Division

Illinois Commerce Commission

Ameren Transmission Company of Illinois  
Petition for an Order pursuant to Section 8-509 of the Public Utilities Act Authorizing  
Use of Eminent Domain Power.

Docket No. 14-0551

September 29, 2014

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- A ATXI's response to Staff data request ENG 1.01
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- C ATXI's planned deviation to avoid the MCCD parcels
- D Map from Docket No. 12-0598 2nd Order on Rehearing showing alternative routes considered for the Pana to Mt. Zion segment

1 **Introduction**

2 **Q. Please state your name and business address.**

3 A. My name is Greg Rockrohr. My business address is 527 East Capitol Avenue,  
4 Springfield, Illinois 62701.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission ("Commission") as a  
7 Senior Electrical Engineer in the Safety and Reliability Division. In my current  
8 position, I review various planning and operating practices at Illinois electric  
9 utilities and provide opinions or guidance to the Commission through Staff  
10 reports and testimony.

11 **Q. What is your previous work experience?**

12 A. Prior to joining the Commission Staff ("Staff") in 2001, I was an electrical  
13 engineer at Pacific Gas and Electric Company in California for approximately 18  
14 years. Prior to that, I was an electrical engineer at Northern Indiana Public  
15 Service Company for approximately 3 years. I am a registered professional  
16 engineer in the state of California.

17 **Q. What is your educational background?**

18 A. I hold a Bachelor of Science degree in Electrical Engineering from Valparaiso  
19 University. While employed in the utility industry and at the Commission, I have  
20 attended numerous classes and conferences relevant to electric utility  
21 operations.

22 **Q. What is the purpose of your testimony?**

23 A. On September 9, 2014, Ameren Transmission Company of Illinois ("ATXI") filed a  
24 petition requesting that the Commission authorize ATXI's use of eminent domain  
25 pursuant to Section 8-509 of the Public Utilities Act ("the Act") to acquire rights-  
26 of-way across specific properties for construction of an overhead electric  
27 transmission line. This is ATXI's fifth petition seeking eminent domain authority  
28 for construction of its planned Illinois Rivers Project, a 345 kV transmission line  
29 that crosses the state.<sup>1</sup> In this docket, ATXI seeks eminent domain authority to  
30 obtain easements across 12 parcels along the Pana to Mt. Zion segment of its  
31 proposed transmission line: 3 parcels located in Macon County, and 9 parcels  
32 located in Shelby County.<sup>2</sup> The purpose of my testimony is to provide the  
33 Commission with information about ATXI's attempts to acquire property rights  
34 through negotiations from the landowners identified in its petition. In addition,  
35 since ATXI plans to deviate from the Commission-approved route for the Pana to  
36 Mt. Zion segment of its transmission line,<sup>3</sup> I recommend that the Commission, in  
37 this proceeding, either (a) amend the CPCN and order pursuant to Section 8-503  
38 of the Act previously granted in Docket No. 12-0598 prior to or at the time it  
39 grants ATXI eminent domain authority for parcels situated along the Pana to Mt.  
40 Zion segment, or (b) withhold granting ATXI's request for eminent domain  
41 authority with respect to all parcels along the Pana to Mt. Zion segment until such  
42 time amendments to the CPCN and order pursuant to Section 8-503 occur.

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<sup>1</sup> ATXI's previous petitions are the subjects of Docket Nos. 14-0291, 14-0380, 14-0438, and 14-0522.

<sup>2</sup> ATXI Ex. 2.1 lists the tax identification numbers for the parcels included in ATXI's petition. Since filing its petition, ATXI obtained a voluntary easement across one of the parcels located in Shelby County that was identified in its petition. See Attachment A.

<sup>3</sup> Docket 14-0522, Staff Ex. 1.0, 9-16.

43 **Background**

44 Q. Has the Commission given Staff guidance as to the information it would like Staff  
45 to provide in Section 8-509 proceedings?

46 A. Yes. In its Final Order in ICC Docket No. 10-0173, the Commission stated:

47 The Commission expects Staff to inquire regarding and/or verifying  
48 a utility's efforts to obtain property through negotiation in future  
49 cases concerning Section 8-509.

50 Illinois Power Company, ICC Order Docket No. 10-0173, 14 (November 23,  
51 2010). Additionally, in its Final Order in ICC Docket No. 13-0516, the  
52 Commission stated:

53 The Commission notes that issues surrounding landowner  
54 concerns about the easement and easement document, including  
55 pole placement, are relevant for a determination as to whether the  
56 Company has made reasonable attempts to acquire the property  
57 and are within the scope of a Section 8-509 proceeding. In future  
58 proceedings, Staff should address any landowner concerns within  
59 their area of expertise, for example pole location or vegetation  
60 issues.

61 Ameren Illinois Company, ICC Order Docket No. 13-0516, 10 (October 23,  
62 2013).

63 In addition, the Commission has previously identified and relied upon five specific  
64 criteria to evaluate whether the granting of eminent domain is appropriate: (1) the  
65 number and extent of contacts with the landowners; (2) whether the utility has  
66 explained its offer of compensation; (3) whether the offers of compensation are  
67 comparable to offers made to similarly situated landowners; (4) whether the utility  
68 has made an effort to address landowner concerns; and (5) whether further  
69 negotiations will likely prove fruitful.<sup>4</sup>

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<sup>4</sup> Ameren Transmission Company of Illinois, ICC Order Docket No. 14-0291, 4 (May 20, 2004).

**Q. What property rights does ATXI seek in this docket?**

A. ATXI generally seeks a 150-foot wide easement across private properties in Shelby and Macon Counties for the segment of its planned 345 kilo-volt (“kV”) overhead transmission line to be constructed between Pana and Mt. Zion.<sup>5</sup> In its Final Order in Docket 12-0598, the Commission granted ATXI a Certificate of Public Convenience and Necessity pursuant to Section 8-406.1 of the Act and an order pursuant to Section 8-503 of the Act authorizing ATXI to construct this 345 kV transmission line, which ATXI identifies as the Illinois Rivers Project.<sup>6</sup> This eminent domain docket does not include all of the properties across which ATXI will seek eminent domain authority in conjunction with Docket 12-0598; it includes only certain properties between Pana and Mt. Zion, as illustrated by the maps shown on page 2 of Exhibit A to ATXI’s petition. ATXI’s 345 kV transmission line will ultimately extend from the Mississippi River to Indiana, and it is my understanding that ATXI will file further petitions seeking eminent domain authority for other parcels along the transmission line not identified in this or prior dockets. In this docket, ATXI seeks eminent domain authority to acquire easements from 9 landowners to cross 12 parcels: 3 parcels in Macon County and 9 parcels in Shelby County (“Unsigned Properties”).<sup>7</sup>

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<sup>5</sup> ATXI Petition, 2 and 4.

<sup>6</sup> Ameren Transmission Company of Illinois, ICC Order Docket No. 12-0598, 133-135 (August 20, 2013).

<sup>7</sup> ATXI Ex. 2.1 lists 13 separate Tax Identification Numbers. On September 18, 2014, ATXI acquired an easement from a landowner for parcel with ATXI Internal Tract Number A\_ILRP\_PZ\_SH\_232 located in Shelby County. See ATXI’s response to Staff DR ENG 1.01, included as Attachment A.

**ATXI's Negotiations with Landowners**

**Q. Do you have any general concerns regarding the activities and practices ATXI used to negotiate for easements across the properties identified on ATXI Exhibit 2.1?**

A. No. Generally, ATXI's activities relating to acquiring easements across the identified properties are the same as its activities previously used and described in Docket Nos. 14-0291, 14-0380, 14-0438, and 14-0522. Prior to filing its petition, ATXI followed procedures that included reasonable attempts to obtain property rights through negotiations with landowners and/or landowner representatives. ATXI explains that its negotiations included logically and consistently derived initial compensation offers followed by discussions with the individual landowners or their counsel. Importantly, ATXI explains that it has been willing to consider landowner valuation information and counter-offers (should landowners provide them).<sup>8</sup> Though I am not an attorney, it is my understanding that, prior to completing the transmission line, ATXI needs to obtain property rights along the entire route of its planned 345 kV transmission line (to the extent it does not already possess such rights), as determined by the Commission in Docket No. 12-0598 with its August 20, 2013, Final Order, its February 5, 2014, First Order on Rehearing, and its February 20, 2014, Second Orders on Rehearing. Therefore, I do not have concerns that ATXI now seeks eminent domain authority to acquire rights to cross some properties so that it can construct the transmission line along the route segments as the Commission specified.

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<sup>8</sup> ATXI Ex. 1.0, 10-15.

111 **Q. Do you have specific concerns regarding ATXI's activities and practices to**  
112 **negotiate with landowners to acquire easements across parcels identified**  
113 **in this proceeding?**

114 A. No. Based upon the information from ATXI that I reviewed, I find ATXI's efforts  
115 to negotiate for easements across the specific parcels identified in the petition to  
116 be reasonable. I note that ATXI commits to attempt to continue to negotiate with  
117 the owners of these parcels, but expresses concern that delays in acquiring land  
118 rights will adversely affect its construction schedule.<sup>9</sup>

119 **Q. Did you evaluate ATXI's request for eminent domain authority based upon**  
120 **the five criteria that the Commission previously identified and relied upon**  
121 **to evaluate whether the granting of eminent domain is appropriate.**

122 A. Yes. My comments and opinions regarding ATXI's negotiations based upon the  
123 five criteria follow.

124 (1) Contact With The Landowners

125 **Q. With regard to the 13 properties, has ATXI provided adequate information**  
126 **regarding the number and extent of contacts with the landowners?**

127 A. Yes. ATXI witness Rick D. Trelz explains ATXI's process for negotiating with  
128 landowners and states that ATXI or its representative, Contract Land Staff,  
129 contacted each landowner no less than 13 times.<sup>10</sup> ATXI Ex. 2.3 summarizes  
130 ATXI's contacts with each of the landowners identified in the petition.<sup>11</sup> In  
131 addition, ATXI provided Staff with confidential workpapers for each Unsigned

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<sup>9</sup> ATXI Ex. 1.0, 16.

<sup>10</sup> ATXI Ex. 1.0, 7-8; ATXI Ex. 2.1.

<sup>11</sup> Page 1 of ATXI Ex. 2.3 (Part B) includes what Staff believes to be a typographical error. Staff believes that the parcel identification should be shown as A\_ILRP\_PZ\_SH\_213, as indicated on ATXI Ex. 2.2 (Rev.), rather than A\_ILRP\_PZ\_SH\_207.



Property that include the date and time of each successful and unsuccessful attempt to contact the landowners.

(2) Explanation of Compensation Offer

**Q. Did ATXI explain the basis for its offers of compensation?**

A. Yes. Mr. Trelz explains that ATXI's property valuations and financial offers to landowners are based upon a third-party appraiser's determination of the market value of each property. Based upon Mr. Trelz's testimony, I understand ATXI's initial offers to be approximately 90% of the fee value of property included in the easement, and to include, where applicable, diminution of value for the remaining property due to the presence of the easement, as well as payment for crop damage resulting from the transmission line installation.<sup>12</sup> To explain its compensation offer to each landowner, ATXI provided each landowner with a worksheet and a copy of the property appraisal that it used.<sup>13</sup> ATXI notes that it also provided a 10% signing bonus with its initial offer.<sup>14</sup>

(3) Reasonableness of Compensation Offers

**Q. Was ATXI's method of determining its offers of compensation to individual landowners reasonable?**

A. Yes. The methodology that ATXI used to determine its offers of compensation appears to me to be logical and reasonable. ATXI used the same third-party appraiser to determine all of its compensation offers for properties included in its petition. It is my understanding that ATXI based its offers upon its appraiser's property valuation, which included consideration of sales of similarly situated

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<sup>12</sup> ATXI Ex. 1.0, 11.

<sup>13</sup> Id., 7.

<sup>14</sup> Id., 12.

properties.<sup>15</sup> Furthermore, ATXI considered valuation information that landowners provided. Since I have no expertise or experience with regard to property appraisals, I offer no opinion regarding the dollar amounts of ATXI's monetary offers.

(4) Responsiveness to Landowner Concerns

**Q. Has ATXI made an effort to address landowner concerns?**

A. Yes. ATXI Ex. 2.3 includes examples of changes that ATXI agreed with as part of its negotiations with individual property owners. For example, page 1 of ATXI Ex. 2.3, Part B explains that ATXI increased its offer after the landowner presented his own formal appraisal. As a second example, ATXI explains on page 1 of ATXI 2.3, Part C that it increased its offer after receiving crop receipts and crop insurance documentation from the landowner. Importantly, ATXI invited landowners to present their own appraisal for ATXI to consider during negotiations.<sup>16</sup>

**Q. Are you aware of any unresolved landowner concerns, other than financial compensation, that may have prevented ATXI and landowners from agreeing on terms for an easement?**

A. Yes. ATXI indicates that there are property owners with concerns about matters other than compensation:

- The owner of the parcel with ATXI Identifier A\_ILRP\_PZ\_SH\_213 has unresolved concerns about the approved transmission line route, and wants

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<sup>15</sup> ATXI Ex. 1.4, 8.

<sup>16</sup> ATXI Ex. 1.0, 14.

the transmission line moved to the other side of the road.<sup>17</sup> ATXI declined the request. I agree with ATXI's decision to decline this request as it appears to me that granting the landowner's request would be costly, affect other properties not on the approved route, and place the transmission line closer to an existing residence.

- The owner of the parcel with ATXI Identifier A\_ILRP\_PZ\_SH\_236 has unresolved concerns about specific easement language. ATXI states it sought clarification from the landowner regarding the concerns and proposed amended easement language, but has received no response. I understand that this property is included in ATXI's eminent domain request largely do to the difficulty ATXI has had in communicating with the landowner's representative.<sup>18</sup>

- ATXI indicates that, for several of the parcels identified in its petition, it does not know why the owners have not granted the easement.<sup>19</sup>

ATXI claims that it attempts to accommodate landowner concerns provided doing so will not compromise ATXI's design standards for reliability and is consistent with applicable regulatory approvals and requirements.<sup>20</sup> I have seen no evidence in this proceeding to contradict this claim.

(5) Usefulness of Further Negotiations

**Q. Will further negotiations, if they occur, prove fruitful with respect to the Unsigned Properties?**

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<sup>17</sup> ATXI Ex. 2.3 Part B, 1.

<sup>18</sup> ATXI Ex. 2.3 Part F, 1-2.

<sup>19</sup> ATXI response to Staff DR ENG 1.02, included as Attachment B.

<sup>20</sup> ATXI Ex. 1.0, 15-16.

A. I do not have an opinion as to whether further negotiations might be fruitful.

**ATXI's Route Deviation**

**Q. Do you have any concerns regarding ATXI's petition?**

A. Yes. In Docket No. 14-0522, ATXI confirmed that, within the Pana to Mt. Zion segment, it intends to deviate from the route that the Commission approved in the Commission's Second Order on Rehearing in Docket No. 12-0598. The route that ATXI intends to use heads east from U.S. Route 51 in Macon County approximately 0.5 miles to the south of the route approved by the Commission.<sup>21</sup> In Docket No. 14-0522, I explained that ATXI's planned deviation from the approved route would: (a) result in greater costs compared to the approved route; and (b) cross different properties than those crossed by the approved route.<sup>22</sup>

**Q. Why is ATXI planning to use a route for the Pana to Mt. Zion segment that is different than the route that the Commission approved?**

A. ATXI determined it cannot construct the approved route. Macon County Conservation District ("MCCD") owns a parcel along the route that the Commission approved for the project. Though I am not an attorney, it is my understanding that ATXI cannot lawfully use eminent domain authority to obtain easements across property that MCCD owns, and MCCD is unable and/or unwilling to voluntarily grant an easement. Section 12(b) of the Conservation District Act states:

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<sup>21</sup> Docket No. 14-0522, ATXI Ex. 4.0, 3-6.

<sup>22</sup> Docket No. 14-0522, Staff Ex. 1.0, 9-12.

218 Property owned by a conservation district may not be subject to  
219 eminent domain or condemnation proceedings.  
220 (70 ILCS 410/12b)

221 Attachment C illustrates the location of four MCCD parcels (red boundaries), the  
222 route that the Commission approved (green line), and the alternative route that  
223 ATXI plans to construct (blue line) in order to avoid crossing any of the MCCD  
224 parcels.<sup>23</sup>

225 **Q. Did the Commission contemplate the possibility that ATXI might be unable**  
226 **to use eminent domain authority to obtain easements across parcels that**  
227 **MCCD owns?**

228 A I believe so. I understand that the Commission addressed such a possibility in its  
229 Second Order on Rehearing in Docket No. 12-0598 when it stated:

230 ATXI should therefore utilize the Assumption/Corzine Route from  
231 Pana until it reaches Staff's Kincaid route, at which point ATXI  
232 should follow the Staff's Kincaid route east to the substation Option  
233 #2 site. Admittedly, this route does not avoid the MCCD property,  
234 which is just east of Highway 51. But the Commission trusts that  
235 ATXI will work to address this obstacle. If need be, the  
236 Commission will entertain requests for a revised route under  
237 Section 8-406 to avoid the MCCD land.

238 Ameren Transmission Company of Illinois, ICC Second Order on Rehearing  
239 Docket No. 12-0598, 50-51 (Feb. 20, 2014) (emphasis added).

240 I understand that the MCCD-owned parcel that obstructs ATXI's ability to use the  
241 Commission-approved route lies along the east side of U.S. Route 51 and is  
242 identified as MCCD-2 on Attachment C. Though ATXI is not seeking eminent  
243 domain authority in this docket for any of the properties crossed by its route  
244 deviation, I understand that the CPCN and Section 8-503 order that the

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<sup>23</sup> Attachment C is a copy of Attachment D to Staff Ex. 1.0 filed in Docket No. 14-0522.

Commission issued in Docket No. 12-0598 authorized construction of the transmission line over a specific route: a route that is different from the route ATXI plans to use. Logically, changes to the specific route identified in the Commission's CPCN and order pursuant to Section 8-503, regardless of the reason for those changes, should be reflected in an amendment to the Commission's CPCN and Section 8-503 order. Though I am not an attorney, this is what I understood the underlined sentence in the above citation from the Commission's Second Order on Rehearing in Docket No. 12-0598 to indicate.

**Q. Why is ATXI's planned deviation from the route that the Commission approved relevant within this eminent domain proceeding?**

A. If ATXI must construct the transmission line, but cannot use the Commission-approved route that crosses a MCCD parcel, ATXI has to use some other route that does not cross the MCCD parcels. There are many possible alternative routes for the Pana to Mt. Zion segment of ATXI's transmission line that would not cross MCCD parcels. I learned in Docket No. 14-0522 that ATXI is actively pursuing one such alternative that the Commission did not approve within the underlying Docket No. 12-0598 proceeding. The Commission might conclude that instead of using ATXI's alternative to bypass the MCCD parcels, one of the other alternative routes for the Pana to Mt. Zion segment that was considered within the underlying Docket No. 12-0598 proceeding should instead be used, or a different alternative route that was not considered within the underlying Docket No. 12-0598 proceeding should be used. In such a circumstance, the properties in Shelby and Macon Counties that are listed in ATXI's petition may not be

268 affected or crossed by the revised route of the transmission line. For example,  
269 instead of approving ATXI's alternative route that affects new landowners who  
270 were not notified in Docket No. 12-0598, as ATXI plans, the Commission might  
271 approve the "Blended Route" that was previously considered in Docket No. 12-  
272 0598.<sup>24</sup> If such a circumstance were to occur, ATXI would no longer require  
273 easements across the same parcels in Shelby and Macon Counties that ATXI  
274 identified in its petition in this proceeding because those parcels would no longer  
275 be crossed by its transmission line. If ATXI were to no longer require easements  
276 across those parcels, clearly ATXI would no longer need eminent domain  
277 authority for those parcels either.

278 To be clear, I am not testifying that other alternative routes previously considered  
279 in Docket 12-0598, including the "Blended Route," are either superior or inferior  
280 to the alternative route that ATXI is pursuing to avoid the MCCD parcels, and I  
281 am not necessarily opposed to the Commission approving the alternative route  
282 that ATXI now apparently intends to use instead of the Commission-approved  
283 route. To my knowledge, however, the Commission has not approved ATXI's  
284 alternative route and other parties, including Staff, have had no opportunity to  
285 compare ATXI's alternative route to other alternate routes. In Docket No. 14-  
286 0522, I explained that If the Commission is certain that ATXI should use the  
287 alternative route it is pursuing, then the Commission should simultaneously grant  
288 ATXI an amended CPCN and order pursuant to Section 8-503 of the Act  
289 approving ATXI's alternative route. Otherwise, the Commission should withhold

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<sup>24</sup> A copy of the map shown on page 45 of the Second Order on Rehearing in Docket 12-0598, which shows alternative routes considered for the Pana to Mt. Zion segment, is included as Attachment D.

eminent domain authority for properties along the Pana to Mt. Zion segment.<sup>25</sup>

Since each of the properties that ATXI identifies in its petition in this docket are located along the Pana to Mt. Zion segment of its proposed transmission line, ATXI's planned deviation from the route that the Commission approved is relevant within this eminent domain proceeding for the same reason(s) it was relevant in Docket No. 14-0522. That is why I have reached the same conclusions in this docket as I reached in Docket No. 14-0522.

**Conclusion**

**Q. Will you summarize your conclusions with respect to ATXI's request in this eminent domain proceeding?**

A. Yes. The Commission has not yet issued an order in Docket No. 14-0522, and my position regarding ATXI's deviation from the Commission-approved route in this docket is the same as my position in Docket No. 14-0522. While I have concluded that ATXI adequately demonstrated that it made reasonable attempts to acquire easements across the parcels identified in its petition through negotiations with landowners or their representatives, ATXI's request for eminent domain authority for any property along the Pana to Mt. Zion segment of the approved transmission line route appears to me to be problematic. ATXI is seeking eminent domain authority presuming it will use an unauthorized route deviation east of U.S. Route 51 that is approximately 0.5 miles south of the approved route – a route that was not approved in Docket No. 12-0598. The alternative route that ATXI plans to construct was not included in the CPCN and order pursuant to Section 8-503 of the Act that the Commission granted to ATXI

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<sup>25</sup> Docket No. 14-0522, Staff Ex. 1.0, 16.



in Docket No. 12-0598. Prior to granting ATXI eminent domain authority for the identified parcels along the Pana to Mt. Zion segment of its proposed transmission line, the Commission should be certain that ATXI's proposed transmission line will actually cross those parcels. Therefore, I can think of only two logical actions for the Commission to take:

- If it has not already done so<sup>26</sup>, the Commission could grant ATXI's request for eminent domain and amend the CPCN and Section 8-503 order previously granted to ATXI in Docket No. 12-0598 to include ATXI's alternative route that bypasses the MCCD parcels.
- The Commission could withhold granting eminent domain authority to ATXI for all parcels along the Pana to Mt. Zion segment until it amends the CPCN and order pursuant to Section 8-503 of the Act previously granted in Docket No. 12-0598 to reflect an alternative route that bypasses the MCCD parcels.

Though I found that ATXI adequately demonstrated that it made reasonable attempts to negotiate for easements across the parcels identified in its petition, the Commission should not grant ATXI's eminent domain request for those parcels unless it is certain ATXI's 345 kV transmission line will cross them.

**Q. Does this conclude your prepared direct testimony?**

**A.** Yes.

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<sup>26</sup> The Commission might resolve this question in a pending matter, ICC Docket No. 14-0522. By statute, the Commission is required to enter a final Order in that proceeding on or prior to October 10, 2014. (See 220 ILCS 5/8-509)(Where an entity has obtained a CPCN under Section 8-406.1 of the PUA, the Commission must act on eminent domain petitions within 45 days of filing).

**Ameren Transmission Company of Illinois's  
Response to ICC Staff Data Requests  
Docket No. 14-0551**

**Petition pursuant to 8-509 of the Act seeking eminent domain authority to allow ATXI to acquire the necessary land rights, including permanent easements, temporary construction easements, and access rights for ingress, egress and vegetation management, along the approved route for the portion of the Pana to Mt. Zion segment of the Project within Shelby County.**

**Data Request Response Date: 9/23/2014**

ENG 1.01

If ATXI has acquired property rights across any of the nine properties identified in ATXI Ex. 2.3 since filing its petition, please identify those properties.

**RESPONSE**

**Prepared By: Amanda Sloan  
Title: Project Manager  
Phone Number: 217-280-4430**

On 9/18/14 ATXI received an executed easement for parcel A\_ILRP\_PZ\_SH\_232, and thus will be withdrawing its request for eminent domain authority for this parcel.

**Ameren Transmission Company of Illinois's  
Response to ICC Staff Data Requests  
Docket No. 14-0551**

**Petition pursuant to 8-509 of the Act seeking eminent domain authority to allow ATXI to acquire the necessary land rights, including permanent easements, temporary construction easements, and access rights for ingress, egress and vegetation management, along the approved route for the portion of the Pana to Mt. Zion segment of the Project within Shelby County.  
Data Request Response Date: 9/23/2014**

ENG 1.02

Staff understands ATXI Ex. 2.3, Parts D, E, G, and J to indicate that ATXI does not know why the owners of these parcels have not agreed to grant the requested easements. Please state whether Staff's understanding is correct. If it is, please describe in detail the steps ATXI has taken to determine the reason these landowners have not granted the easements.

**RESPONSE**

**Prepared By: Amanda Sloan  
Title: Project Manager  
Phone Number: 217-280-4430**

ATXI has reached a voluntary agreement with A\_ILRP\_PZ\_SH\_232, which is ATXI 2.3 Part E, and is therefore withdrawing its request for eminent domain authority for this parcel as described in ATXI's response to ENG 1.01.

For ATXI Ex. 2.3 Part D, A\_ILRP\_PZ\_SH\_226 and 228, Staff is correct. In an effort to determine with greater certainty the reasons this landowner has not granted an easement, ATXI has spoken with the landowner's attorney numerous times to try to move toward a resolution. In fact, the CLS land agent contacted the landowner's attorney, Mr. Beavers, on September 2, 2014, and asked him what issues were preventing all his clients, including the landowner for this property, from reaching agreement with ATXI. As I stated in Exhibit 2.3 (Part D), the agent met with Mr. Beavers a few days later (on September 5, 2014), but Mr. Beavers was still unable to provide any specific issue preventing agreement for this property. Likewise, Mr. Beavers did not indicate that the owner would be providing a counter-offer or wanted any language changes. Since the filing of ATXI's Petition in this case, the agent has been working with the attorney and tenant to obtain documentation for crop yields, but ATXI has not yet received these. Also, neither the owner nor his attorneys have submitted a counter offer or language revisions, to date.

For ATXI Ex. 2.3 Part G, A\_ILRP\_PZ\_SH\_238, ATXI was able to clarify the outstanding issues in a meeting with the attorney and the owner on September 22, 2014. The outstanding issues include a pole relocation request, compensation and a request to remove soil spoil. ATXI will review these issues and promptly respond to the landowner.

For ATXI Ex. 2.3 Part J, A\_ILRP\_PZ\_MA\_449, Staff is correct. ATXI has been told by the Trustee that they believe we have an agreement and has met with the beneficiaries of the trust and tenant on the property to answer their questions. After initiating this proceeding, the tenant stated that they wished to

submit crop insurance information and the agent committed to reviewing that item, when supplied, to see if our valuation will need to be reviewed.

# 14-0522 MCCD Properties





